

ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

Felecia A. Rotellini
Superintendent of Financial Institutions

November 17, 2008

Via Certified Mail

Scott L. Tuber, President
Freedom Home Mortgage Consultants Corp. (FN)
4600 South Mill Ave.
Tempe, AZ 85282

Reference: Docket # 09F-BD047-BNK
Freedom Home Mortgage Consultants Corp. (FN)

Dear Mr. Tuber:

Please find the enclosed formal Order of Summary Suspension and Notice of Hearing. The hearing is scheduled for **December 22, 2008, at 1:30 p.m.** at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona.

Please contact **Assistant Attorney General Liane Kido** at **(602) 542-8011** with any questions.

Very truly yours,

Robert D. Charlton
Assistant Superintendent of Financial Institutions

RDC:slI

Enclosures

cc: Liane Kido, Assistant Attorney General

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ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Mortgage Banker License of: No. 09F-BD047-BNK

**FREEDOM HOME MORTGAGE
CONSULTANTS CORP. (FN) and
SCOTT L. TUBER, PRESIDENT**
4600 South Mill Ave.
Tempe, AZ 85282

**ORDER OF SUMMARY SUSPENSION
AND NOTICE OF HEARING TO REVOKE**

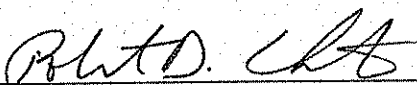
Respondents.

The Arizona Department of Financial Institutions (the "Department") hereby finds that Freedom Home Mortgage Consultants Corp. (FN) and Scott L. Tuber, President ("Respondents") have violated the provisions of the Arizona Revised Statutes ("A.R.S."), Title 6 as set forth below and finds that the public health, safety and welfare require emergency action pursuant to A.R.S. §§ 6-945 and 41-1092.11(B).

THEREFORE, IT IS ORDERED to summarily suspend the Arizona mortgage banker license held by Respondents, effective immediately, pending the proceedings for revocation or other action commenced this date. **This suspension is effective immediately.**

EFFECTIVE this 17th day of November, 2008.

Felecia A. Rotellini
Superintendent of Financial Institutions

By 
Robert D. Charlton
Assistant Superintendent of Financial Institutions

NOTICE OF HEARING AND COMPLAINT

PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for December 22, 2008 at 1:30 p.m. at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

1 The purpose of the Hearing is: (1) to determine whether grounds exist to suspend or revoke
2 Respondents' mortgage banker license; (2) to order any other remedy necessary or proper for the
3 enforcement of statutes and rules regulating mortgage bankers in Arizona pursuant to A.R.S.
4 §§ 6-123 and 6-131; and (3) to impose a civil money penalty pursuant to A.R.S. § 6-132.

5 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
6 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
7 or expressed, to the Director of the Office of Administrative Hearings or the director's designee to
8 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
9 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office
10 of Administrative Hearings has designated Thomas Shedden, at the address and phone number listed
11 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative
12 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
13 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
14 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law
15 Judge is specifically prohibited from entering.

16 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
17 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
18 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
19 Administrative Hearings.

20 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
21 counsel, or to proceed without counsel when submitting evidence, to have a reasonable opportunity
22 to inspect all documentary evidence, to cross-examine witnesses, to present evidence and witnesses
23 in support of his/her interests, and to have subpoenas issued by the Administrative Law Judge to
24 compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-1092.07(B),
25 any person may appear on his or her own behalf or by counsel.

26

1 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
2 made by a court reporter or by electronic means. Any party that requests a transcript of the
3 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

4 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
5 Attorney General Liane C. Kido, (602) 542-8011, 1275 West Washington, Phoenix, Arizona 85007.

6 **NOTICE OF APPLICABLE RULES**

7 The hearing will be conducted pursuant to A.A.C. R20-4-1201 through R20-4-1220 and the
8 rules governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
9 R2-19-122. A copy of these rules is enclosed.

10 Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20)**
11 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondents'
12 position or defense and shall specifically admit or deny each of the assertions contained in this
13 Notice of Hearing. If the answering Respondents are without or are unable to reasonably obtain
14 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondents shall
15 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.
16 When Respondents intend to deny only a part or a qualification of an assertion, or to qualify an
17 assertion, Respondents shall expressly admit so much of it as is true and shall deny the remainder.
18 Any defense not raised in the answer is deemed waived.

19 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be**
20 **deemed in default** and the Superintendent may deem the findings in this Notice of Hearing as true
21 and admitted and the Superintendent may take whatever action is appropriate, including (1)
22 suspension or revocation of Respondents' license; (2) any other remedy necessary or proper for the
23 enforcement of statutes and rules regulating mortgage bankers in Arizona pursuant to A.R.S. §§ 6-
24 123 and 6-131; and (3) imposing a civil money penalty pursuant to A.R.S. § 6-132.

25 . . .

26 Respondents' answer shall be mailed or delivered to the Arizona Department of Financial

1 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
2 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
3 Arizona 85007 and to Assistant Attorney General Liane C. Kido, Consumer Protection & Advocacy
4 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

5 **Persons with disabilities may request reasonable accommodations such as interpreters,**
6 **alternative formats, or assistance with physical accessibility.** Requests for special
7 accommodations must be made as early as possible to allow time to arrange the accommodations. If
8 accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

9 FINDINGS

10 1. Respondent Freedom Home Mortgage Consultants Corp. (FN), ("FHMCC") is a
11 Missouri corporation authorized to transact business in Arizona as a mortgage banker, license
12 number BK 0909596, within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of FHMCC's
13 business is that of making, negotiating, or offering to make or negotiate loans secured by Arizona
14 real property, within the meaning of A.R.S. § 6-941(5).

15 2. Respondent Scott L. Tuber., ("Mr. Tuber") is the President and one hundred percent
16 (100%) owner of FHMCC. Mr. Tuber is authorized to transact business in Arizona as a mortgage
17 banker within the meaning of A.R.S. § 6-943(F).

18 3. FHMCC, before conducting business as a mortgage banker, is required to have a
19 surety bond, deposited with the Superintendent, pursuant to A.R.S. § 6-943(H), in the required
20 amount pursuant to A.R.S. § 6-943(H).

21 4. According to the records of the Arizona Corporation Commission, FHMCC's true
22 name is Freedom Home Mortgage Corp.

23 5. According to the records of the Arizona Corporation Commission, the current status
24 of FHMCC is "REVOKED-FILE ANNUAL REPORT 08/28/2008".

25

26

1 6. On March 18, 2008, the Department received a letter from Hope Sedaghat, Vice
2 President of FHMCC stating "Please find enclosed, the form AZ_MU-Amendment. This package
3 was previously sent and recently returned. This cover letter is to confirm this is the second attempt
4 to send to Arizona Department of Financial Institutions." Included with the letter were:

- 5 a. Pages 7, 8 and 11 of Form MU1;
- 6 b. Form MU2, Biographical Statement & Consent for Scott Lawrence Tuber, which
7 was signed by Mr. Tuber on February 21, 2008;
- 8 c. Form AZ_MU2, Biographical Statement & Consent Form for Scott Lawrence Tuber,
9 which was signed by Mr. Tuber on February 21, 2008;
- 10 d. Copy of the "Freedom Home Mortgage Corporation Ownership Statement" which
11 was executed on December 14, 2007. The "Freedom Home Mortgage Corporation
12 Ownership Statement" states that Joseph M. Reilly, Incorporator and former
13 President of Freedom Home Mortgage Corporation resigns as President and transfers
14 all his shares and responsibilities to Scott L. Tuber. In addition, Scott L. Tuber
15 acknowledges receipt of the shares and responsibilities and accepted the position of
16 President and Chief Executive Officer for Freedom Home Mortgage Corporation;
- 17 e. Copy of the Corporate Resolution dated November 30, 2007;
- 18 f. Copy of the Resolution of the Board of Directors dated November 30, 2007 which
19 transfers the Corporation to Scott Tuber; and
- 20 g. Copy of the Certificate of Good Standing from the Arizona Corporation Commission
21 for FHMCC.

22 7. On March 19, 2008, the Department sent a facsimile to FHMCC requesting the
23 company complete the information the Department received on March 18, 2008.

24 8. On April 15, 2008, the Department received the Mortgage Banker Renewal
25 Application ("Renewal") for FHMCC. Question number 13 of the Renewal lists the current owner
26 as Scott Tuber, President, and 100% owner.

1 9. On May 14, 2008, the Department sent a facsimile to FHMCC regarding the
2 incomplete Renewal the Department received on April 15, 2008. After no response, the Department
3 attempted to send a second request for FHMCC to complete the Renewal on September 18, 2008.

4 10. On July 28, 2008, the Department received a Notice of Cancellation of Bond by
5 Surety from Fidelity and Deposit Company of Maryland, stating that FHMCC's surety bond,
6 number LPM759017100, will be canceled 30 days after receipt of this notice.

7 11. On July 28, 2008, the Department sent a letter via certified mail to FHMCC,
8 informing them of the bond cancellation.

9 12. To date, FHMCC has not provided all information regarding the change of control
10 received by the Department on March 18, 2008 nor the Renewal received by the Department on
11 April 15, 2008.

12 13. FHMCC failed to provide documentation regarding the reinstatement of their bond or
13 documentation of a new surety bond.

14 14. The Department did not provide any prior written approval for a change of control.

15 15. FHMCC does not have the required surety bond in order to conduct business as a
16 mortgage banker.

17 16. The conduct described above constitutes an immediate threat to the public health,
18 safety, and welfare, warranting immediate suspension of Respondents' mortgage banker license
19 because Respondents are able to conduct business in Arizona as a licensed mortgage banker and
20 they do not have the required surety bond.

21 17. The mortgage banker license of FHMCC is suspended.

22 18. The conduct described above constitutes grounds for revocation of Respondents'
23 mortgage banker license.

24 ...

25 ...

26 ...

LAW

1. Pursuant to A.R.S. Title 6, Chapter 9, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage banker business and with the enforcement of statutes, rules, and regulations relating to mortgage bankers.

2. By the conduct set forth above in the Complaint, FHMCC and Mr. Tuber violated A.R.S. § 6-943(H) by failing to maintain the required surety bond.

3. By the conduct set forth above in the Complaint, FHMCC and Mr. Tuber violated A.R.S. § 6-944(A) by failing to obtain prior written approval before completing a change in control of FHMCC.

4. Respondents have not conducted business in accordance with the law and violated Title 6, Chapter 9 and the rules relating to this chapter, which are grounds for the suspension or revocation of Respondents' license pursuant to A.R.S. § 6-945(A)(7).

5. The violations, set forth above, constitute grounds for the pursuit of any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage bankers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131.


6. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day.

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above described violations or other grounds for disciplinary action, the Superintendent may: (1) suspend or revoke FHMCC and Mr. Tuber's mortgage banker license pursuant to A.R.S. § 6-945; (2) order any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage bankers in Arizona under A.R.S. §§ 6-123 and 6-131; and (3) impose a civil penalty pursuant to A.R.S. § 6-132.

...

...

1 DATED this 17th day of November, 2008.

2
3 

4 Robert D. Charlton
5 Assistant Superintendent of Financial Institutions

6 ORIGINAL of the foregoing filed this 17th
7 day of November, 2008, in the office of:

8 Felecia Rotellini
9 Superintendent of Financial Institutions
10 Arizona Department of Financial Institutions
11 ATTN: Susan Longo
12 2910 N. 44th Street, Suite 310
13 Phoenix, AZ 85018

14 COPY mailed/delivered same date to:

15 Thomas Shedden, Administrative Law Judge
16 Office of the Administrative Hearings
17 1400 West Washington, Suite 101
18 Phoenix, AZ 85007

19 Liane C. Kido, Assistant Attorney General
20 Attorney General's Office
21 1275 West Washington
22 Phoenix, AZ 85007

23 Robert D. Charlton, Assistant Superintendent
24 Richard Fergus, Licensing Division Manager
25 Arizona Department of Financial Institutions
26 2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

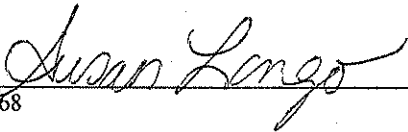
AND COPY MAILED SAME DATE, by
Certified Mail, Return Receipt Requested to:

Freedom Home Mortgage Consultants Corp. (FN)
Attn: Scott L. Tuber, President
4600 South Mill Ave.
Tempe, AZ 85282

1 Freedom Home Mortgage Consultants Corp. (FN)
2 Attn: Scott L. Tuber, President
3 1044 Rt. 23 N Suite 102
4 Wayne, NJ 07470

5 Freedom Home Mortgage Consultants Corp. (FN)
6 Attn: Scott L. Tuber, President
7 750 Hamburg Turnpike
8 Pompton Lakes, NJ 07442

9 Scott L. Tuber
10 Statutory Agent for Freedom Home Mortgage
11 Consultants Corp. (FN)
12 830 E. Leo Place
13 Chandler, AZ 85249

14 
15 _____
16 333168